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December 28, 2021

VIA ECF

MEMO ENDORSED

The Honorable Katherine Polk Failla, USDJ
United States District Court for the Southern District of New York
40 Foley Square, New York, New York 10007

Re: *Blue Cross & Blue Shield Assoc. Nat'l Emp. Benefits Committee v. Allianz Global Investors U.S. LLC et al.*, 20-cv-7606 (KPF)

Dear Judge Failla:

In connection with the pre-conference letter filed on December 28, 2021 by Defendant Aon Investments USA Inc. ("Aon") regarding the discovery dispute concerning Plaintiff Blue Cross and Blue Shield Association National Employee Benefits Committee's ("NEBC") refusal to add its own members as custodians, Aon respectfully requests leave to submit a redacted version of the pre-conference letter and certain exhibits to that letter, and to file certain additional exhibits to that letter under seal pursuant to Section IX of the Stipulated Amended Protective Order (the "Protective Order," Dkt. 79) and Rule 9(B) and (C) of the Court's Individual Rules of Practice in Civil Cases. Specifically, Aon seeks to leave to submit a redacted version of the following exhibits, each filed in connection with Aon's pre-conference letter:

Exhibit 8: November 16, 2021 Letter from Aon to NEBC, which includes excerpts from documents that Aon, NEBC, and Allianz have produced. These excerpts come from documents with Bates numbers AIUSA000180328, NEBC0101217, NEBC0103406, NEBC103407, and AllianzGIUS SA 03425284.

Exhibit 13: October 13, 2021 Letter from Allianz Global Investors U.S. LLC ("Allianz") to NEBC, which includes excerpts from documents that NEBC has produced and designated "Confidential." These excerpts come from documents with Bates numbers NEBC0028537, NEBC0432466, NEBC0022515, NEBC002274, NEBC0022545, and NEBC0455348.

Exhibit 14: October 26, 2021 Letter from NEBC to Allianz, which includes excerpts from

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documents that Aon, NEBC, and Allianz have produced. These excerpts come from documents with Bates numbers AIUSA000001837, NEBC0455387, AllianzGIUS-SA-00188655, and AllianzGIUS-SA-00187208.

Additionally, Aon seeks to seal the following exhibits, each filed in connection with Aon's pre-conference letter:

Exhibit 6: Document produced by NEBC with Bates number NEBC010217, which NEBC has designated "Confidential."

Exhibit 7: Document produced by Aon with Bates number AIUSA000180328, which Aon has designated "Confidential."

The attached pre-conference letter and Exhibits 6-8 and 13-14 include or discuss material that has been designated Confidential under the Protective Order in this case. The Protective Order permits the parties to designate certain categories of sensitive information produced in the course of discovery as "Confidential" or, in the case of extremely sensitive information, "Highly Confidential," with all such material referred to collectively as "Protected Material." Protective Order § 4. The Protective Order requires that "A Party or Non-Party submitting any Protected Material to the Court in the Related Actions (whether in support of a pleading or motion, at a hearing, or in connection with any other pre-trial proceeding) must file the Protected Material in redacted form or under seal to the full extent permitted by the Local Rules of the U.S. District Court for the Southern District of New York and Judge Failla's Individual Practices in Civil Cases." *Id.* § IX.A.

The ordinary "presumption of access is entitled only to modest weight" here, "because the documents at issue were submitted in connection with a motion to compel discovery, rather than a dispositive motion, and because resolution of that discovery motion does not require the Court to analyze the merits of the parties' claims or defenses." *Royal Park Invs. SA/NV v. Deutsche Bank Nat'l Tr. Co.*, 2016 WL 7188795, at *2 (S.D.N.Y. Dec. 7, 2016) (citations omitted). Moreover, the sole document produced by Aon—Exhibit 7—includes significant information concerning the investments of actual or potential third parties. *See* AIUSA0000180328-33; *see generally United States v. Amodeo*, 71 F.3d 1044, 1050 (2d Cir. 1995) ("[t]he privacy interests of innocent third parties ... should weigh heavily in a court's balancing equation.").

Accordingly, Aon requests leave to file the pre-conference letter with redactions, to file Exhibits 8, 13, and 14 with redactions, and to file Exhibits 6-7 under seal.

Respectfully submitted,

/s/ Renita Sharma

Renita Sharma

cc: Counsel for Plaintiff and Allianz (by ECF)

Application GRANTED. Defendant Aon shall be permitted to file the above-specified portions of its pre-motion submission in redacted form and under seal, viewable only to the parties and the Court. The Clerk of Court is directed to terminate the pending motion at docket entry 133.

Date: December 29, 2021
New York, New York

SO ORDERED.

A handwritten signature in blue ink, reading "Katherine Polk Failla". The signature is written in a cursive, flowing style.

HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE